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Attorneys for Defendants
FUJITSU LIMITED, and
FUJITSU MICROELECTRONICS AMERICA, INC.

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF GUAM

NANYA TECHNOLOGY CORP. and
NANYA TECHNOLOGY CORP. U.S.A.,

Plaintiff,

vs.

FUJITSU LIMITED, FUJITSU
MICROELECTRONICS AMERICA, INC.,

Defendants.

CIVIL CASE NO. 06-CV-00025

**NON-AGREEMENT OF HEARING
DATE FOR DEFENDANTS' MOTION
TO IMMEDIATELY TRANSFER FOR
CONVENIENCE**

FILED

DISTRICT COURT OF GUAM

APR 17 2007

MARY L.M. MORAN
CLERK OF COURT

Pursuant to Local Rule 7.1, the parties hereby acknowledge the following:

1. I, Daniel M. Benjamin, am the attorney for the Defendants in this matter.

2. The attorney for plaintiff is Joseph C. Razzano.

3. When my office contacted the clerk's office to obtain a hearing date on this motion to transfer, it was informed that no date was available until July 12, 2007 at 10:30 a.m. For the reasons stated below, Defendants are very respectfully requesting an earlier hearing date should one presently be possible or subsequently become available. Alternatively, they are requesting a hearing on June 22 to coincide with related, pending motions.

4. A transfer was previously sought in Defendants' Motion to Dismiss or Transfer (Docket Nos. 74 & 89), which are currently set for hearing on June 22, 2007 based upon the stipulation of the parties and Order of the Court. (Docket Nos. 148 & 163). In those motions and the parties' stipulation, it was assumed that the Court would have determine whether to dismiss based upon a lack of personal jurisdiction before it could hear the request to transfer, and the parties stipulated that certain discovery relevant to the jurisdictional issue would occur before any hearing.

5. However, following that stipulation, the U.S. Supreme Court issued a decision in *Sinochem Int'l Co. v. Malaysia Int'l Shipping Corp.*, No. 06-102, 549 U.S. ___, 127 S.Ct. 1184 (Mar. 5, 2007), that permits the Court to hear the motion to transfer without first deciding whether there is personal jurisdiction. For that reason, Defendants are filing this motion asking that the transfer issue be heard first.

6. As stated, after contacting the Court Clerk's Office, the first available hearing date for this new motion was July 12, 2007. Because this date is well after the parties and the Court will have already engaged in the discovery and motion practice related to the motions to dismiss or transfer, and after the hearing of those motions, it is Defendants' respectful hope that

1 an earlier hearing date might be possible, or might become available after the filing of this
2 motion.

3 7. Given the nature of Defendants' request for an earlier date than is presently
4 available, Defendants' counsel has not contacted Plaintiffs' counsel regarding the hearing date of
5 July 12, 2007 provided by the Clerk's office. Rather, in the event an earlier date cannot be
6 secured, Defendants ask that the Court consider hearing this motion on June 22, 2007 along with
7 the other related, pending motions. All parties already stipulated that they are available on that
8 date. (*See* Docket Nos. 148 & 163).

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10 8. However, given the potential benefits to the Court and the parties in giving
11 earlier consideration to the transfer issue now that the U.S. Supreme Court's ruling has made that
12 possible, it is Defendants' very respectful request that this motion be heard, if possible, at the
13 earliest convenient date for the Court.
14

15 Respectfully submitted this 17th day of April, 2007.

16 **CALVO & CLARK, LLP**
17 **MILBANK, TWEED, HADLEY**
18 **& MCCLOY LLP**
19 *Attorneys for Defendants*
20 *Fujitsu Limited and*
21 *Fujitsu Microelectronics America, Inc.*

22 By: 

23 **DANIEL M. BENJAMIN**
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